

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) ALLSTATE INSURANCE
COMPANY,

Plaintiff,

v.

Case No. CIV-18-899-F

(1) ADAMS & ASSOCIATES, P.C., on
behalf of itself and all others similarly
situated; and,
(2) HELENA’S ADVENTURES IN
TRAVEL, INC.;

Defendants.

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff, Allstate Insurance Company, (“Allstate”), for its Complaint For Declaratory Judgment, alleges and states as follows:

1. Allstate is an Illinois insurance company with its principal place of business in Illinois.

2. Adams & Associates, P.C. (“Law Firm”) is an Oklahoma corporation with its principal place of business in Oklahoma.

3. Helena’s Adventures In Travel, Inc. (“Helena’s Adventures”) is an Oklahoma corporation with its principal place of business in Oklahoma.

4. Subject matter jurisdiction for this declaratory judgment action exists pursuant to 28 U.S.C. § 1332(a)(1), as there is complete diversity of citizenship between the parties and the amount in controversy between Allstate and Helena’s Adventures exceeds the sum of \$75,000, exclusive of interests and costs.

5. Supplemental jurisdiction over the Law Firm and members of the class is proper pursuant to 28 U.S.C. § 1367.

6. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391(b) because the events giving rise to this declaratory judgment action occurred within this judicial district.

7. Allstate issued policy no. 048136783 to Helena's Adventures as the "Named Insured".

8. The Law Firm filed a Class Action Petition in the District Court of Oklahoma County, State of Oklahoma, case no. CJ-2007-790 alleging that Helena's Adventures violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 ("TCPA"), by sending unsolicited facsimiles to individuals and businesses in Oklahoma.

9. The District Court of Oklahoma County certified the class requested by Law Firm and appointed Law Firm as the class representative.

10. The Law Firm, as class representative, is pursuing statutory damages under the TCPA of \$500.00 per violation and treble damages of \$1,500.00 per willful or knowing violation.

11. The TCPA's statutory damages sought by the Law Firm are penal/punitive in nature and are not insurable under Oklahoma law.

12. There is an immediate, real, and substantial controversy between the Parties to this Action as to the existence of coverage under the Policy for the TCPA's penal/punitive statutory damages sought by the Law Firm and class against Helena's Adventures.

WHEREFORE, Plaintiff Allstate Insurance Company prays that this Court declare that indemnity is not owed under the Policy to the Law Firm or any other member of the class for the TCPA's penal/punitive statutory damages.

Respectfully submitted,

s/ RONALD L. WALKER

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